

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:18-cv-01673-TJK**

NATIONAL STUDENT LEGAL DEFENSE NETWORK v.
UNITED STATES DEPARTMENT OF EDUCATION
Assigned to: Judge Timothy J. Kelly
Cause: 05:552 Freedom of Information Act

Date Filed: 07/16/2018
Jury Demand: None
Nature of Suit: 895 Freedom of
Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

**NATIONAL STUDENT LEGAL
DEFENSE NETWORK**

represented by **Martha Upton Fulford**
2550 South Monroe
Denver, CO 80210
(303) 807-7343
Email: martha.fulford@gmail.com
TERMINATED: 04/30/2019
LEAD ATTORNEY

Robyn K. Bitner
NATIONAL STUDENT LEGAL
DEFENSE NETWORK
1015 15th Street NW
Suite 600
Washington, DC 20005
(202) 734-7495
Email: robyn@nsldn.org
PRO HAC VICE
ATTORNEY TO BE NOTICED

V.

Defendant

**UNITED STATES DEPARTMENT OF
EDUCATION**

represented by **Sean Michael Tepe**
U.S. DEPARTMENT OF JUSTICE
555 Fourth Street, NW
Washington, DC 20530
(202) 252-2533
Fax: (202) 252-2599
Email: sean.tepe@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Doris Denise Coles-Huff
U.S. ATTORNEY'S OFFICE FOR THE
DISTRICT OF COLUMBIA
555 Fourth Street, NW
Washington, DC 20530
(202) 252-2557
Fax: (202) 252-2599
Email: doris.coles@usdoj.gov
ATTORNEY TO BE NOTICED

Jason Todd Cohen
U.S. DEPARTMENT OF JUSTICE
175 N Street, NE
Washington, DC 20002
202-514-0335
Fax: 202-616-4473
Email: jason.t.cohen@usdoj.gov
TERMINATED: 11/24/2019

Date Filed	#	Docket Text
07/16/2018	<u>1</u>	COMPLAINT against UNITED STATES DEPARTMENT OF EDUCATION (Filing fee \$ 400 receipt number 0090-5589518) filed by NATIONAL STUDENT LEGAL DEFENSE NETWORK. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5, # <u>6</u> Exhibit 6, # <u>7</u> Exhibit 7, # <u>8</u> Civil Cover Sheet, # <u>9</u> Summons)(Upton Fulford, Martha) (Entered: 07/16/2018)
07/16/2018	<u>2</u>	LCvR 7.1 CERTIFICATE OF DISCLOSURE of Corporate Affiliations and Financial Interests by NATIONAL STUDENT LEGAL DEFENSE NETWORK (Upton Fulford, Martha) (Entered: 07/16/2018)
07/16/2018		Case Assigned to Judge Timothy J. Kelly. (zsth) (Entered: 07/17/2018)
07/17/2018	<u>3</u>	SUMMONS (1) Issued Electronically as to UNITED STATES DEPARTMENT OF EDUCATION. (Attachments: # <u>1</u> Notice and Consent)(zsth) (Entered: 07/17/2018)
07/23/2018	<u>4</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 7/23/2018. (Answer due for ALL FEDERAL DEFENDANTS by 8/22/2018.), RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 07/23/2018., RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. UNITED STATES DEPARTMENT OF EDUCATION served on 7/20/2018 (Attachments: # <u>1</u> Affidavit A)(Upton Fulford, Martha) (Entered: 07/23/2018)
08/13/2018	<u>5</u>	NOTICE of Appearance by Jason Todd Cohen on behalf of UNITED STATES DEPARTMENT OF EDUCATION (Cohen, Jason) (Entered: 08/13/2018)
08/13/2018	<u>6</u>	Unopposed MOTION for Extension of Time to File Answer re <u>1</u> Complaint, by UNITED STATES DEPARTMENT OF EDUCATION (Attachments: # <u>1</u> Text of Proposed Order)(Cohen, Jason) (Entered: 08/13/2018)
08/13/2018		MINUTE ORDER granting Defendant's <u>6</u> Unopposed Motion for Extension of Time to Answer or Otherwise Respond to Complaint. It is hereby ORDERED that Defendant shall respond to Plaintiff's complaint by September 21, 2018. Signed by Judge Timothy J. Kelly on 8/13/2018. (lctjk3) (Entered: 08/13/2018)
09/21/2018	<u>7</u>	ANSWER to Complaint by UNITED STATES DEPARTMENT OF EDUCATION.(Cohen, Jason) (Entered: 09/21/2018)
09/21/2018		MINUTE ORDER: Before the Court in this FOIA case are a complaint and an answer. It is hereby ORDERED that the parties shall meet, confer, and file a joint proposed schedule for briefing or disclosure by October 19, 2018. Signed by Judge Timothy J. Kelly on 9/21/2018. (lctjk3) (Entered: 09/21/2018)
09/24/2018		Set/Reset Deadlines: Joint Proposed Briefing Schedule or Disclosure due by 10/19/2018. (kh) (Entered: 09/24/2018)
10/19/2018	<u>8</u>	Joint STATUS REPORT by UNITED STATES DEPARTMENT OF EDUCATION. (Cohen, Jason) (Entered: 10/19/2018)
10/22/2018		MINUTE ORDER: Upon review of the <u>8</u> Joint Status Report filed by the parties, it is hereby ORDERED that the parties shall file another joint status report by November 19, 2018. Signed by Judge Timothy J. Kelly on 10/22/2018. (lctjk3) (Entered: 10/22/2018)
11/01/2018	<u>9</u>	MOTION for Leave to Appear Pro Hac Vice :Attorney Name- Robyn K. Bitner, :Firm- National Student Legal Defense Network, :Address- 1015 15th Street NW Suite 600, Washington DC 20005. Phone No. - (202) 734-7495. Filing fee \$ 100, receipt number 0090-5770419. Fee Status: Fee Paid. by NATIONAL STUDENT LEGAL DEFENSE NETWORK (Attachments: # <u>1</u> Affidavit Bitner, # <u>2</u> Text of Proposed Order)(Upton Fulford, Martha) (Entered: 11/01/2018)
11/05/2018		MINUTE ORDER granting Plaintiff's <u>9</u> Motion for Leave to Appear Pro Hac Vice. Attorney Robyn K. Bitner is hereby admitted pro hac vice to appear in this matter. Signed by Judge Timothy J. Kelly on 11/5/2018. (lctjk3) (Entered: 11/05/2018)

11/19/2018	<u>10</u>	Joint STATUS REPORT by NATIONAL STUDENT LEGAL DEFENSE NETWORK. (Upton Fulford, Martha) (Entered: 11/19/2018)
11/20/2018		MINUTE ORDER: In light of the parties' <u>10</u> Joint Status Report, it is hereby ORDERED that the parties shall file a further joint status report by December 19, 2018. Signed by Judge Timothy J. Kelly on 11/20/2018. (lctjk3) (Entered: 11/20/2018)
12/19/2018	<u>11</u>	Joint STATUS REPORT by NATIONAL STUDENT LEGAL DEFENSE NETWORK. (Upton Fulford, Martha) (Entered: 12/19/2018)
12/21/2018		MINUTE ORDER: In light of the parties' <u>11</u> Joint Status Report, it is hereby ORDERED that the parties shall file a further Joint Status Report by January 18, 2019. Signed by Judge Timothy J. Kelly on 12/21/2018. (lctjk3) (Entered: 12/21/2018)
01/08/2019	<u>12</u>	MOTION to Stay by UNITED STATES DEPARTMENT OF EDUCATION (Attachments: # <u>1</u> Text of Proposed Order)(Coles-Huff, Doris) (Entered: 01/08/2019)
01/10/2019		MINUTE ORDER: It is hereby ORDERED that the parties' next joint status report, currently due by January 18, 2019, shall instead be due by February 8, 2019. Signed by Judge Timothy J. Kelly on 1/10/2019. (lctjk3) (Entered: 01/10/2019)
01/28/2019		MINUTE ORDER denying Defendant's <u>12</u> Motion to Stay. Given the restoration of funding to the Department of Justice, it is hereby ORDERED that Defendant's motion to stay the case is DENIED AS MOOT. Signed by Judge Timothy J. Kelly on 1/28/2019. (lctjk3) (Entered: 01/28/2019)
01/30/2019	<u>13</u>	Joint STATUS REPORT by NATIONAL STUDENT LEGAL DEFENSE NETWORK. (Bitner, Robyn) (Entered: 01/30/2019)
02/01/2019		MINUTE ORDER: In light of the parties' <u>13</u> Joint Status Report, it is hereby ORDERED that the parties shall file a further joint status report by March 1, 2019. Signed by Judge Timothy J. Kelly on 2/1/2019. (lctjk3) (Entered: 02/01/2019)
03/01/2019	<u>14</u>	Joint STATUS REPORT by NATIONAL STUDENT LEGAL DEFENSE NETWORK. (Bitner, Robyn) (Entered: 03/01/2019)
03/01/2019		MINUTE ORDER: In light of the parties' <u>14</u> Joint Status Report, it is hereby ORDERED that the parties shall file a further joint status report by April 1, 2019. Signed by Judge Timothy J. Kelly on 3/1/2019. (lctjk3) (Entered: 03/01/2019)
04/01/2019	<u>15</u>	Joint STATUS REPORT by NATIONAL STUDENT LEGAL DEFENSE NETWORK. (Bitner, Robyn) (Entered: 04/01/2019)
04/02/2019		MINUTE ORDER: In light of the parties' <u>15</u> Joint Status Report, it is hereby ORDERED that the parties shall file a further joint status report by June 3, 2019. Signed by Judge Timothy J. Kelly on 4/2/2019. (lctjk3) (Entered: 04/02/2019)
04/30/2019	<u>16</u>	NOTICE OF WITHDRAWAL OF APPEARANCE as to NATIONAL STUDENT LEGAL DEFENSE NETWORK. Attorney Martha Upton Fulford terminated. (Upton Fulford, Martha) (Entered: 04/30/2019)
05/23/2019	<u>17</u>	MOTION to Compel by NATIONAL STUDENT LEGAL DEFENSE NETWORK (Attachments: # <u>1</u> Text of Proposed Order)(Bitner, Robyn) Modified event title on 5/28/2019 (znmw). (Entered: 05/23/2019)
06/03/2019	<u>18</u>	Joint STATUS REPORT by UNITED STATES DEPARTMENT OF EDUCATION. (Cohen, Jason) (Entered: 06/03/2019)
06/05/2019	<u>19</u>	Unopposed MOTION for Extension of Time to File Response/Reply as to <u>17</u> MOTION to Compel by UNITED STATES DEPARTMENT OF EDUCATION (Cohen, Jason) (Entered: 06/05/2019)
06/05/2019		MINUTE ORDER granting Defendant's <u>19</u> Unopposed Motion for Extension of Time. It is hereby ORDERED that Defendant shall file its response to Plaintiff's <u>17</u> Motion to Compel by June 13, 2019. Signed by Judge Timothy J. Kelly on 6/5/2019. (lctjk3) (Entered: 06/05/2019)
06/13/2019	<u>20</u>	Second MOTION for Extension of Time to File Response/Reply as to <u>17</u> MOTION to Compel by UNITED STATES DEPARTMENT OF EDUCATION (Cohen, Jason) (Entered: 06/13/2019)

06/14/2019		MINUTE ORDER granting in part Defendant's <u>20</u> Second Motion for Extension of Time. It is hereby ORDERED that Defendant shall file its response to Plaintiff's <u>17</u> Motion to Compel by July 3, 2019. Signed by Judge Timothy J. Kelly on 6/14/2019. (lctjk3) (Entered: 06/14/2019)
07/03/2019	<u>21</u>	Memorandum in opposition to re <u>17</u> MOTION to Compel filed by UNITED STATES DEPARTMENT OF EDUCATION. (Attachments: # <u>1</u> Declaration of Ann Marie Pedersen)(Cohen, Jason) (Entered: 07/03/2019)
07/07/2019	<u>22</u>	MOTION for Extension of Time to File Response/Reply by NATIONAL STUDENT LEGAL DEFENSE NETWORK (Attachments: # <u>1</u> Text of Proposed Order)(Bitner, Robyn) (Entered: 07/07/2019)
07/09/2019		MINUTE ORDER granting, for good cause shown, Plaintiff's <u>22</u> Motion for Extension of Time. It is hereby ORDERED that Plaintiff shall file its reply in support of its <u>17</u> Motion to Compel by July 17, 2019. Signed by Judge Timothy J. Kelly on 7/9/2019. (lctjk3) (Entered: 07/09/2019)
07/17/2019	<u>23</u>	REPLY to opposition to motion re <u>17</u> MOTION to Compel filed by NATIONAL STUDENT LEGAL DEFENSE NETWORK. (Attachments: # <u>1</u> Exhibit A)(Bitner, Robyn) (Entered: 07/17/2019)
11/24/2019	<u>24</u>	NOTICE OF SUBSTITUTION OF COUNSEL by Sean Michael Tepe on behalf of UNITED STATES DEPARTMENT OF EDUCATION Substituting for attorney Jason Cohen (Tepe, Sean) (Entered: 11/24/2019)
02/13/2020		MINUTE ORDER: It is hereby ORDERED that, by February 28, 2020, the parties shall submit a joint status report regarding certain issues raised in Plaintiff's <u>17</u> Motion to Compel. In that report: (1) the parties shall address whether Plaintiff has received all documents it requested from fiscal year 2017, or a detailed log of those documents, as Defendant represented it would by August 2019; (2) Defendant shall address why it is unable to provide Plaintiff the requested documents from fiscal year 2018, or a detailed log of those documents, well before August 2020, in light of Plaintiff's representations in its <u>23</u> Reply concerning information Defendant has already disclosed to third parties and the timing of those disclosures; and (3) the parties shall inform the Court of any additional developments related to the motion that have occurred since briefing was completed. Signed by Judge Timothy J. Kelly on 2/13/2020. (lctjk3) (Entered: 02/13/2020)
02/28/2020	<u>25</u>	Joint STATUS REPORT by NATIONAL STUDENT LEGAL DEFENSE NETWORK. (Bitner, Robyn) (Entered: 02/28/2020)
03/02/2020		MINUTE ORDER: The parties' <u>25</u> Joint Status Report does not contain any relevant information from Defendant regarding the first two issues the Court requested that the parties address in its Minute Order of February 13, 2020. Therefore, it is hereby ORDERED that by March 6, 2020, Defendant shall submit a supplemental status report. Signed by Judge Timothy J. Kelly on 3/2/2020. (lctjk3) (Entered: 03/02/2020)
03/06/2020	<u>26</u>	STATUS REPORT by UNITED STATES DEPARTMENT OF EDUCATION. (Tepe, Sean) (Entered: 03/06/2020)
03/13/2020		MINUTE ORDER denying without prejudice Plaintiff's <u>17</u> Motion to Compel. In Defendant's <u>26</u> Status Report, it represents that it has offered to produce a spreadsheet it believes is responsive to the first part of Plaintiff's request by March 23, 2020. It also represents that it is willing to search for documents responsive to the second part of Plaintiff's request and "is currently attempting to estimate the volume and how long it would take to process this portion of the FOIA request." Because the parties appear to be conferring in good faith and working toward resolution of this litigation, it is hereby ORDERED that Plaintiff's <u>17</u> Motion to Compel is DENIED without prejudice. It is further ORDERED that the parties shall file a joint status report apprising the Court of their progress by April 13, 2020. Signed by Judge Timothy J. Kelly on 3/13/2020. (lctjk3) (Entered: 03/13/2020)
04/13/2020	<u>27</u>	Joint STATUS REPORT by UNITED STATES DEPARTMENT OF EDUCATION. (Tepe, Sean) (Entered: 04/13/2020)
04/15/2020		MINUTE ORDER: Upon consideration of the parties' <u>27</u> Joint Status Report, it is hereby ORDERED that the parties shall file a further joint status report by June 1,

		2020. Signed by Judge Timothy J. Kelly on 4/15/2020. (lctjk3) (Entered: 04/15/2020)
06/01/2020	<u>28</u>	Joint STATUS REPORT by NATIONAL STUDENT LEGAL DEFENSE NETWORK. (Attachments: # <u>1</u> Text of Proposed Order)(Bitner, Robyn) (Entered: 06/01/2020)
06/02/2020		MINUTE ORDER: Upon consideration of the parties' <u>28</u> Joint Status Report, it is hereby ORDERED that the parties shall file a further joint status report by July 1, 2020. Signed by Judge Timothy J. Kelly on 6/2/2020. (lctjk3) (Entered: 06/02/2020)
07/01/2020	<u>29</u>	Joint STATUS REPORT by NATIONAL STUDENT LEGAL DEFENSE NETWORK. (Attachments: # <u>1</u> Text of Proposed Order)(Bitner, Robyn) (Entered: 07/01/2020)
07/02/2020		MINUTE ORDER: Upon consideration of the parties' <u>29</u> Joint Status Report, it is hereby ORDERED that the parties shall file a further joint status report by August 3, 2020. Signed by Judge Timothy J. Kelly on 7/2/2020. (lctjk3) (Entered: 07/02/2020)